

SPECIFIC ACTIONS REQUIRED - PHASE I OF THE STRATEGIC PLAN

The principal objectives of Phase I of the Strategic Plan are the acquisition and institutionalization of an organizational structure, information systems and management and organizational skills which will permit and ensure that the U.S. Government establishes appropriate policies and procedures, develops necessary systems and takes the affirmative actions required which will allow it to meet the requirements and objectives of the American Indian Trust Fund Management Reform Act of 1994, the fiduciary standards of the Reform Act and common law and moral obligations of the highest responsibility and trust.

Generally, the Strategic Plan proposes, directly and indirectly, that all policies, procedures, systems and practices for trust management activities meet at a minimum the general standards and best practices of national bank trust departments and companies. These standards have evolved over the past 60 years and are guided by, regulated, supervised and enforced by the OCC. Similarly, the trust powers and account administration flexibility for various types of investments are also modeled after the powers and fiduciary flexibility available to national bank trust departments. It is proposed that OCC regularly examine and supervise AITDA in much the same way OCC conducts examinations and supervision of national bank trust departments. In short, the American Indian trust beneficiaries will be receiving equivalent trust services to those trust services provided by national bank trust departments to their trust customers and AITDA will receive supervision and examination by OCC. These private sector standards are proven, efficient and effective. OCC's supervision has been effective as well: notably, no national bank since the 1930s has failed because of losses taken by bank trust departments and companies.

Phase I of the Strategic Plan also includes specific proposals and provisions for opportunities for American Indian Tribes and Individual American Indians to assist in the management of their trust accounts and to identify options for the investment of their trust accounts, in a manner consistent with the vision statement, in ways that will help promote economic development in their communities. These proposals will also be subject to and governed by private sector trust standards applicable to national bank trust departments. The Strategic Plan proposes that the Federal trustee will be governed by the prudent investor standard as adapted for the special circumstances of the trust relationship between the U.S. and Indian Tribes and individuals. Generally, under the standard the trustee shall exercise reasonable care, skill and caution to make and implement investment and management decisions as a prudent investor would for the entire portfolio, taking into account the purposes and terms and provisions of the governing instrument. The governing instrument would be the applicable treaties, statutes, regulations, judgments, or as negotiated with the beneficiary. Generally, the proposed investment options will open up a myriad of prudent economic development opportunities, almost all of which have been previously denied to American Indian trust beneficiaries.

To meet the Strategic Plan objectives and deal with the present and the future, organizational structure, senior management and trust management activities and programs of all types must be improved and brought up to the fiduciary and trust asset and accounting management standards prevalent in the private sector as soon as possible. Only this will permit an accurate and full accounting to American Indian beneficiaries and allow for the proper discharge of the U.S. Government's trust responsibilities to American Indian trust beneficiaries.

ORGANIZATIONAL STRUCTURE AND MANAGEMENT

The Strategic Plan proposes a single organization which will manage the U.S. Government's trust responsibilities to American Indians and American Indian Tribes for trust resource management, trust funds management and land title and records management (collectively, trust management activities).

This will involve consolidating trust management activities into a single, independent institution with its own management structure to assume the responsibility for the reforms identified in the Strategic Plan, to implement the reforms over a two year period and to provide for the ongoing management and administration of the U.S. Government's trust responsibilities to American Indians for trust management activities. The institutional unit should be organized by business line or function and should be dedicated exclusively to trust management activities. The institutional unit should be managed by a full time Chairman and Chief Executive Officer and a Board of Directors appointed by the President and confirmed by the Senate.

The unit's proposed organizational form is an independent GSE subject to Congressional oversight. The unit's generic name is referred to throughout the Strategic Plan as the AITDA.

As noted, three of the four primary causes of the longstanding trust management problems involve serious management and organizational structure weaknesses. Management has been principally responsible for the failure to address and resolve the longstanding trust management problems and for the permanent damage to the core trust management systems the government uses to manage the Indian lands and monies. These defective systems prevent the government from meeting the fiduciary, accounting and reporting standards required by the American Indian Trust Fund Management Reform Act of 1994 and standards of ordinary prudence applicable to all trustees, public or private.

So long as the organization and management of the trust management activities remain status quo and as long as the trust management activities are mingled with general trust functions and other government programs and activities, it is unlikely that any meaningful reforms will be implemented and unlikely that these activities will receive appropriate allocations of financial and managerial resources sufficient to allow them to be administered according to the high moral obligations and trust and exacting fiduciary standards the United States has undertaken and assumed. For these reasons, the Special Trustee believes that the Department of the Interior and the BIA do not have and will not have the financial and managerial resources to undertake and implement the reforms proposed by the Strategic Plan.

The Special Trustee, therefore, has proposed a new organizational and executive management structure to address and resolve the long standing trust management problems and to ensure that the Federal Government fulfills its trust responsibilities to American Indian trust beneficiaries. AITDA has distinct advantages over the current structure. The reorganization will:

1. Stop and reverse the steady erosion of the Federal Government's fulfillment of its trust responsibilities (de facto "termination") currently occurring because of lack of financial and managerial resources (capacity) and the unwillingness to address and resolve the longstanding trust problems.
2. Clearly establish accountability both to American Indians and the U.S. Congress and American people.
3. Establish an organization focusing and specializing exclusively on trust management activities.

4. Create an organization which will function with a greater degree of independence and at a higher level in government than BIA. As a GSE and consistent with the treatment of other GSEs, Congress is more likely to provide appropriate financial and managerial resources to ensure the success of the new organization than exists at present.
5. Establish a five person Board of Directors appointed by the President and confirmed by the Senate who will devote full time to the governance and management of the new organization. Three of the Board members will be American Indians proposed to the President by Indian Country. This will assure high level advocacy of issues important to Indian Country and accountability to Indian Country. Two of the Board members, including the Chief Executive Officer, will be experienced and skilled financial and trust asset and accounting managers. This will assure competent management at the most senior levels of the organization.
6. Attract, train and retain competent senior management, skilled and experienced in trust asset and accounting management and capable of managing a modern trust operation. This will be facilitated by making AITDA a GSE. AITDA, like other GSEs, will be exempt from government hiring rules and compensation ceilings and will therefore be able to compete with the private sector in attracting competent management.
7. Allow AITDA to assess, train, evaluate, compensate on a competitive basis with the private sector and replace, if necessary, those employees transferred from Department of the Interior (DOI) to AITDA.
8. Accelerate the process of self-governance by the Tribes. The proposal would not interfere with the Tribes' ability to contract or compact for trust functions since the Self-Determination Act and Self-Governance Act would still be applicable to these programs. Like a private trustee, the proposed administration of the trust activities would rely on a common set of laws, policies, practices, regulations and a common Trust Asset and Accounting Management System (TAAMS) and a means through annual audits and reviews and administrative oversight and supervision to assure performance by the Self-Governance Tribes. The Self-Governance Tribes would act as service bureaus under delegated authority from AITDA to provide trust management services for which they had expertise. Thus, increasingly in the future, service bureau management of nearly all of the trust management activities could and should be provided by qualified Tribes or American Indians, themselves, under appropriate compacts and contracts, subject to the rules, oversight and supervision of the Federal trustee.

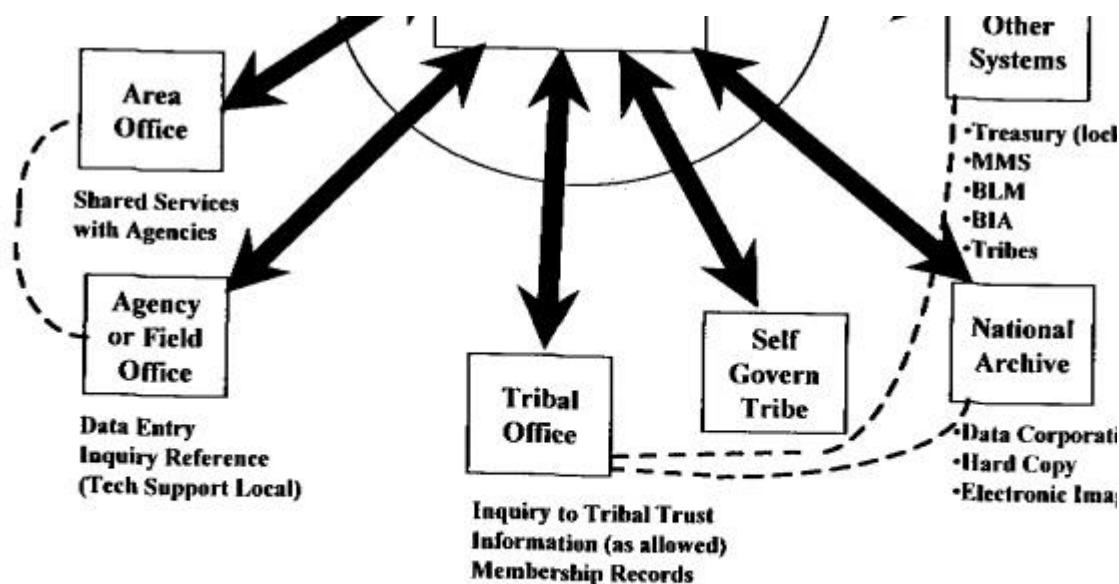
The Board of Directors and executive management of AITDA will manage and administer, directly and indirectly, all trust asset and accounting functions, including trust resources management and trust funds management; trust financial and information services management; trust land title and records services; trust records and archiving; and risk management. The Trust Risk Management unit will report directly to the AITDA Board of Directors and will conduct operational, credit and compliance reviews and audits of AITDA units and outside servicers such as BIA, MMS, Bureau of Land Management (BLM), Self Governance & 638 Tribes and others. These service bureaus will contract with AITDA to provide specified services under delegated authority and will be subject to AITDA's oversight and supervision.

The organization chart for AITDA and the architecture and support system are as follows:



16





17

TRANSFER OF TRUST AUTHORITY, BUDGETS AND CERTAIN STAFF FROM DOI TO AITDA

ROLE OF THE BUREAU OF INDIAN AFFAIRS, MINERALS MANAGEMENT SERVICE, THE BUREAU OF LAND MANAGEMENT, SELF-GOVERNANCE & 638 TRIBES AND OTHER SERVICERS IN FUTURE TRUST MANAGEMENT ACTIVITIES

At the inception of the American Indian Trust Development Administration, the duties, responsibilities, budgets and certain staff engaged on behalf of the U.S. Government as trustee in trust resources management, trust funds management and trust land and records management will be transferred to AITDA from the Department of the Interior. This will include all statutory authority, funding and staffing, except as noted below, including those that are in the Tribal Priority Allocation part of the President's Budget.

At inception all authority, budgets and staff of the Office of Trust Funds Management (OTFM) and the Land Title and Records Office along with staff engaged in the operation of the Land Records Information System and budgets will be transferred to AITDA. Employees transferred or hired will be assessed, trained and closely evaluated on their qualifications and performance and replaced as necessary.

Staff of the BIA, MMS, BLM and Self Governance Tribes engaged in the management of Indian land and natural resources, including all pre-lease and pre-contracting activities and lease and contract origination, will remain in place. AITDA will contract with these units and they will serve as service bureaus for the indicated trust services and activities.

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| BIA & Tribes (Self Governance & 638) and third parties | Land and natural resource management, except post leasing and post contracting activities and records and information system management, unless otherwise contracted. |
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| BLM & Tribes (Self Governance & 638) and third parties | Production verification at lease site for oil, gas & coal. Environmental compliance from point of production through closure. Includes all current activities except records and information system management, unless otherwise contracted. |
| MMS & Tribes (Self Governance & 638) and third parties | Royalty and compliance management for oil and gas, including all current activities except records and information system management, unless otherwise contracted. |

AITDA will delegate certain specified investment or management functions to BIA, BLM, MMS, Self Governance Tribes and other third parties only after exercising care, skill and caution in:

1. selecting a delegee suitable to exercise the delegated function, taking into account the nature and value of the assets subject to such delegation and the expertise of the delegee;
2. establishing the scope and terms of the delegation consistent with the purposes of the governing instrument;
3. periodically reviewing through operational and compliance audits and administrative oversight the delegee's exercise of the delegated function and compliance with the scope and terms of the delegation; and
4. controlling the overall cost and budget by reason of the delegation.

BIA, BLM, MMS, the Self Governance Tribes and other parties that operate as trust servicers and as delegees:

1. will have a duty to the trustee and to the trust to comply with the scope and terms of the delegation and to exercise the delegated function with reasonable care, skill and caution. An attempted exoneration of the delegee from liability for failure to meet such duty is contrary to public policy and null and void.
2. will, by accepting the delegation of a trustee's function from the trustee, submit to the jurisdiction of the Federal district courts or other appropriate jurisdiction and the delegee may be a party to any proceeding in such courts or jurisdiction that places in issue the decisions or actions of the delegee.
3. will operate under the regulations, standards, policies and procedures and the information, accounting and reporting systems issued, established and maintained by AITDA.

For land and natural resources management activities, existing staff of BIA, BLM and MMS and the Self Governance Tribes will remain in place at their current locations. Tribes will be assured the same opportunities and authority that currently exist. AITDA managers will sit down with the Tribes to prioritize programs within its's jurisdiction, thus assuring Tribal input and priorities are met on a local and area basis. Further, the current opportunities of 638 contracting and Self Governance Tribes will remain unchanged and fully available to the Tribes. By focusing the AITDA on the trust management

activities which have been transferred to AITDA, the BIA will be free to focus on other programs.

The Organizational Structure and Management Structure are more fully discussed in Appendix One.

DETAIL OF SPECIFIC ACTIONS REQUIRED - PHASE I OF THE STRATEGIC PLAN

I. Process and systems integration: optimizing systems and organization to maximize service delivery

BASIC INTERGRATED BUSINESS PROCESS AND SYSTEMS CONCEPT

The Strategic Plan proposes that the Federal Government align its trust management systems and organizational structure in order to allow it to better discharge its fiduciary obligations to American Indians and American Indian Tribes in a manner more consistent with the acceptable legal standards of modern trust practice. The new structure will optimize and promote the performance of business processes, the execution of its trust responsibility, and the delivery of services and products to American Indian trust beneficiaries. Because the execution of the trust activities and the delivery of services are primarily dependent upon the performance of its business processes (e.g., what it does as its business, and how it does its business), the most effective and efficient method to establish such an alignment would be to base its systems and its organizational structure on established policies and procedures long used in private sector trust management. The trust management business processes consist of three fundamental trust process groups involved in the delivery of Federal trust services to Indian Tribes and individuals: trust resources management, trust funds management and land title and records management.

The operational philosophy is that the policies, procedures and regulations applicable to national bank trust departments should be used as the guides in developing policies and procedures for AITDA and the fiduciary services performed by the U.S. Government for American Indian beneficiaries.

II. Rationale for a Private Sector-Based Strategic Approach

Background

The Special Trustee's assessment is that the present policies, procedures and systems do not allow the BIA as required by the Reform Act and generally accepted prudential standards applicable to all trustees to:

1. properly account for and invest as well as maximize the return on the investment on all Trust moneys of individual Indians and Indian Tribes; and
2. prepare accurate and timely reports to account holders regarding collections, disbursements, investments, and return on investments related to their accounts.

In order to accomplish the two major points described above, the Secretary of the Interior and those agencies that have been delegated responsibilities in this area must have a trust accounting and management system similar to a private sector trust department system (discussed below) in place to fully accomplish these goals or objectives. The essence of the trust accounting system that is needed is that all assets of an individual Indian or Tribe will be reflected on a single coordinated system that will enable a trust report or statement to be prepared for each individual account holder reflecting all the

assets owned, a value at cost and market, a projected income for the assets and an estimated yield or current return on the assets. A trust accounting system has at its core the ability to record financial and asset information, values, income and compute yields or rates of return. The core system can be complimented by assets specific systems or modules to account for special assets such as real property in its various forms including farm or grazing land, retail or commercial improved rental land or buildings, mineral leasing, oil and gas leasing, etc. The present systems and tools that are being utilized by the DOI, BIA, and OTFM are independent systems that do not operate on an integrated basis enabling information and data to pass between the systems, be verified, audited and ultimately produce the desired complete, accurate and timely reports to account holders regarding their assets and income.

Private Sector Trust Department

A typical trust accounting system would have as its central elements the recording of all assets for which the trustee has fiduciary responsibility. Assets come in broad categories, including cash and cash equivalent; financial assets (common stocks, preferred stocks, bonds, debentures, notes, etc.); real estate, mineral interest; intangible non financial assets, such as leases and partnerships (general and limited); tangible assets including jewelry, china, silver, furniture, precious metals such as gold and silver, coins, ingots, etc. Within the trust accounting system there will be various system subsets, or modules that will provide enhanced ability to record and manage the assets. These subsystems utilize assets specific information in providing financial transactions, trust statements, or consolidated statements for accounts or for the trust department as a whole. Included in such modules or subsets would be a securities module that would enable monthly, weekly or daily pricing of financial assets that are traded on a national exchange such as the New York Stock Exchange and the NASDAQ. Pricing services such as the Standard & Poors, Bloomberg, and Morningstar could be integrated into this securities subset or module. In a similar manner, systems pertaining to land and improvements on the land are also available and can be utilized where appropriate. An additional module frequently used by trust departments would be a common trust or pooled investment fund system to manage the investment, accounting and valuation for commingled investments.

At the heart of the trust system and organization is a trust accounting or operations unit or department. In order to enhance the integrity of the system, promote uniformity in recording and reporting of assets, and to establish an adequate audit trail, a centralized operations and financial recording activity is important. The trust operations area would include the following elements and activities:

1. All financial data input to the system, that is the initial description and recording of all assets including financial assets, land, and tangibles.
2. Data relating to the particular characteristics of an asset; e.g., common stocks have a specific description or security identification number, generally pay dividends on a quarterly basis that are uniform or may include special dividends; bonds generally pay interest on a semi-annual basis; land may produce rental income, leasehold payments, oil and gas revenues, royalties, etc.
3. Reporting within the trust department and to its beneficiaries; the systems and the operations group provides reports in a number of different forms within the department and to the beneficiaries. Within the department there would exist statements of conditions or balance sheets reflecting in summary form all assets such as the cash for which the department is responsible, all of the financial assets, all of the land, etc; and all the liabilities, essentially the

interest of all the beneficiaries (account holders) by the type of accounts, e.g., estates, trusts, agencies, corporate trusts, etc.

A report to an individual beneficiary or account holder would include a trust statement displaying cash equivalents, financial investments (bonds, debentures, and common stocks); land, tangible assets, miscellaneous assets. Wherever available, the statement would also include the cost basis of each asset, the current market value, projected income, and a market yield on the respective assets wherever appropriate. Complementing the trust statement could be a report or data providing investment performance comparisons, that is the current income and total return for this particular account for a given period. This may be supplemented with comparison to standard indices including the Standard & Poors 500, a commercial bond total return index such as the Merrill Lynch Intermediate Bond Index or the Lehman Brothers Intermediate or Long term Bond Index, etc.

1. **Administrative Data** - A wide-range of administrative information relating to an account can also be produced by the system. This data frequently is produced in the form of administrative ticklers, i.e., notices or warnings that inform a trust administrator or management of events to come or action that is required to assist in the timely completion of such tasks. As an example, if an account is for a minor who will obtain majority and thus be entitled to a distribution of an account at a particular age, a 90-day notice ahead of that time can be provided by the system automatically. If the trust account is responsible for the payment of casualty insurance on improved real estate and the payment of real estate taxes, etc., these payments can be anticipated and advance notice provided so that these important tasks are completed on a timely basis without late penalty charges. In a similar manner, prospective termination of rental, grazing or leasing activities can be anticipated. Anticipated income reports can also be produced by the system to reflect the dividends, interest, rental, etc. payments due at a particular time to assist in ensuring that all payments are received.
2. **Management Data** - The typical trust system can provide a host of data and reports essential to the proper management and oversight of trust activities. These reports can include the workload or number of accounts assigned to an individual accounts administrator, can report on the receipt of new accounts and the termination of existing accounts, the existence of accounts in particular geographic or organizational locations.
3. **Audit** - The typical trust system will have an audit trail and the ability for an independent auditor to obtain reports, identify transactions, and the originator of the transactions. The auditors can determine whether there are controls and balances and verification processes in place that are consistent with operating policies and procedures and good trust management techniques.

III. Discussion of the Action Elements of the Strategic Plan

A. Purchase & Upgrades of Hardware and Software

Regarding the purchase and upgrade for end-user workstations, the outside contractor found the existing BIA facilities largely well equipped (or in the process of installation) with 486/586 technology. However, a significant number of new work stations will need to be purchased and present ones upgraded to bring the systems at both the Tribal and BIA levels up to modern standards.

The communications networking requirements are based on a new architecture which supports the Trust Asset and Accounting Management System in the style of a private sector trust operation. The

communications architecture is basically a point-to-point type service since most calls will be directed to the Central database in the form of data inquiry or deposit information from the agencies and Tribes. It has been structured to evolve into a client/server configuration at any location where the need becomes justifiable. Client/Server architecture, as it will be used in this proposed configuration, does not move any stored data or program responsibility down to the field server level. All files and processing will be the responsibility of the central office level software and hardware. Rationale for client/server facilities would be based on other areas of activity, but not for Trust Processing.

Preliminary analysis pegs the user workstation requirement for trust management and the trust-related functions of land management at over 1,900 PC workstations including all stated requirements at DOI, OST, BIA and Tribal staff in the field offices and locations, trust interfaces at the Tribal offices and the Land Title and Records Offices (LTRO) and realty user community.

B. Core Systems Development and Related Costs

The original points presented in the Conceptual Strategic Plan have been expanded into a complete, fully integrated Trust Management and Reporting System. Also, for Title Plant, the observations of the independent contractor have found that the existing Land Record Information System (LRIS) application presently is serving the user community adequately, where properly used. The inadequacies of this system are more related to training and data than to the functionality of the application itself. While not an immediate priority, the LRIS system will need upgrading in the near term and provisions have been made in the Strategic Plan for this upgrade (See the LRIS-2 discussion below).

The Strategic Plan proposes the acquisition of a commercially available TAAMS product adapted to fulfill all trust management activities, including investment, management and reporting requirements.

Commercial Trust Management Systems (CTMS) exist with modules that will integrate and perform the trust asset and accounting management and land lease management functions in a centralized location. This is an important enabler in achieving the Strategic Plan's objective of bringing the Trust Asset and Accounting Management System up to commercial standards. It also presents policies, procedures and systems that will allow the trustee to properly account for and invest all trust monies, and prepare accurate and timely reports to account holders.

The current Integrated Records Management System (IRMS) application is insufficient to create a trust management system at a level of commercial acceptability that would fulfill the U.S. Government's fiduciary responsibility without a major, expensive, lengthy reconfiguration. IRMS is an outmoded system and does not articulate easily with LRIS. Since several well-documented private sector trust management and accounting systems exist and are for sale, it is substantially more cost effective to buy rather than rewrite. Acquiring an existing commercially available trust management system will greatly reduce development costs and accelerate the implementation phase.

Given the requirement of trust management and the magnitude of the user community, the use of "*client server networks*" was not a recommendation of the outside contractor, is not a requirement and provides no real advantage. At some sites, such a facility is not practical. Instead, the Strategic Plan proposes that an effective communication network architecture support internodal linkages between the AITDA administration offices and field offices in Albuquerque, Agency Offices, Tribal facilities, a new national archive center, and other systems interfaces. Also, implementation of this architecture will accelerate the process of establishing a working network environment.

C. Other Core Elements

A number of other key elements are essential to meeting the Strategic Plan's goals. These elements include: a disaster recovery plan, daily backup capabilities, training at all levels, appropriate legal and legislative changes, IIM and Tribal file cleanup and probate and appraisal cleanup. These elements must also be performed or acquired if the Strategic Plan is to be effective.

D. End-User Administration; General Support and Maintenance

Under this configuration, end-user administration is kept to a minimum. The original Conceptual Strategic Plan allowed for OTFM Technical Staffing at all Area and Agency Offices. The final Strategic Plan eliminated the field requirement for that level of support and has instead funded a centralized Help Desk function. Local Technical Support now exists at the Area Offices and appears sufficient to cover true technical needs. A simple re-allocation of funds to permit travel allows the senior technical staff to support the field operations. Funds were also earmarked for training at all levels with the intent being to increase user performance and reduce end-user reliance upon the technical support staff, wherever possible.

E. Data Conversion and Imaging

Data conversion will be required to transfer to the new system information for processing. It was the outside contractor's judgment that this task has been understated in the Conceptual Strategic Plan from a budget point of view. Based upon the observations made during the field trips, a large number of manual files as well as a number of locally developed manual processes were observed; hence, there exists a major task in normalizing the data prior to loading it into any system. LRIS appears to provide the functions required. A significant data clean-up task appears necessary but conversion to a new application is not justified at this time.

The need for imaging is obvious and is requested at most locations. The primary need is to record maps, land deed documents, and any other documentation related to land ownership for electronic reference and safe storage of the original and paper documents related to land ownership. Lease and other financial documentation must be recorded from origination to final disbursement to owners.

The process of data clean-up and data imaging, when addressed as a common task, should provide a more synergistic effort to complete statement of work requirements.

F. Systems Integration and Implementation

The systems integration and implementation factors will be largely covered with the commercial trust system software to be acquired. A full integration will be a prerequisite in the selection of the software product. End-user training, which was also identified as a high priority, will be incorporated as a part of the related cost of core application acquisition.

G. Access by Tribes

The education and training to be given to the Tribal end-users will be extensive and will involve about 450 end-users. Monies will also be spent to integrate current hardware and software that the Tribes now use with the new system. Access to the information depository will be guaranteed so that the Tribes can extract data and manipulate and customize the data for their own general business

purposes.

H. National Archives Center and System

Internal studies and those of the outside contractor revealed the almost total lack of back-up and archiving procedures. Only one site of all those visited had addressed the archival issue. The equipment required was purchased with Tribal funds and installed in the Field Office. The staff was trained in the procedures related to imaging and verification, which was supplemented with the orientation required to use the services and functions of the system. This site could be the base for a model of what has to be done and one operational solution for consideration. A key lesson learned was the magnitude of set up time required. After one month of attempting to do the task with staff members, it was found to be more prudent to out source, saving both time and manpower.

The Strategic Plan budget contains the estimated costs for 1) equipment costs for imaging, 2) equipment costs for storing the data, 3) equipment costs for integrating this into the network for access by all concerned parties and 4) the out source expenses to avoid the labor intensive task and accelerate the process of imaging and creating document control.

I. Upgrades to General Ledger System

The CTMS, as defined above, includes the trust accounting functions and the changes required for the upgrade of the general ledger system.

J. Additional Budget Items

1) Personnel Training

Across all area, agency and Tribal sites a need for technology training, management training and organization development training exists at a significant level. These training needs create a major barrier to effective and efficient office operations having to do with the implementation of current fiduciary responsibility. It will be further compounded with implementation of a new integrated trust management system. Recent reductions in force have exacerbated these problems since field observations reveal that significant numbers of BIA and OTFM personnel are being required to perform a variety of different and new tasking functions. This has created significant confusion with regard to areas of responsibility, inadequate supervision, and negative feelings in both organizations. Without training and proper supervision, much of this additional duty is being accomplished with heavy doses of self-developed on the job training. In addition to these training needs, further work on process and procedure identification needs to occur. The field data supports the addition of significant increases in expenditures in training regarding the above. If this is approved and effected, there is a strong likelihood that the implementation of the trust system will occur without having to increase staff but rather through re-deployment and retraining. In short, a comprehensive skill mix transition plan is necessary coupled with an intense on-going training to provide the low-cost high performance trust operation which is the desired outcome of the strategic investment. Field data also support the Tribal long term interest in creating a system which allows for a larger role in managing their financial affairs. Therefore the ultimate system must have the flexibility to allow that transition and to provide the necessary training to accomplish the task.

2) Clean-Up Probate/Appraisal Backlog

This includes paralegal services and support services to reduce the probate backlog which averages about two years and is up to four years in some areas. This also includes certification of paralegal and appraisal resources.

IV. Review and Analysis of Data in Land and Lease Management System and Associated Training

LTRO provide a public record of the chain of title relating to real property allotted to and held in trust for individuals pursuant to various treaties with Indian Tribes and acts of Congress relating to individual Indians. The record keeping systems for LTRO include the LRIS and Property Index. LRIS is an electronic information system and the Property Index is manually maintained.

Inputs are based on documents submitted by various authorities outside of LTRO for the purpose of being recorded against a property or properties. Most documents submitted for recording originate from an Agency Office or, in the case of compact agreements, Tribes.

Outputs of an LTRO generally consist of a certified Title Status Report, a certified inventory of property held by a decedent, and uncertified indications of ownership by property or by individual.

While a given LTRO may only certify properties located within the boundaries of its Area Office, uncertified ownership information may be obtained across Area Office databases to provide an indication of ownership for an individual having trust property in multiple areas.

In comparison with public land record systems utilized under the jurisdiction of states, an LTRO combines the functions of a registrar of deeds and a title abstract company. However, the scope of an LTRO goes beyond these institutions in that an LTRO may give an opinion in the case of ownership disputes.

Ownership of land is also recorded by agencies on systems such as IRMS Ownership. A noted distinction of differences between the LTRO function and functions provided by systems such as IRMS Ownership is that the LTRO allows for public inspection of land title under certain circumstances while the IRMS Ownership information is subject to higher degrees of confidentiality.

A review of the Automated Land Management Records System (ALMRS) was performed by the Office of the Special Trustee and the outside contractor. Based on those reviews, it appears that the ALMRS is not a replacement for LRIS but, in fact, a complementary system and an effective source for official legal descriptions of the Indian properties and related data. ALMRS is still in the development stage. Specifics regarding an implementation schedule were not yet available. ALMRS provides no ownership information and therefore cannot be used as a substitute for LRIS, which, as stated above is a workable system for the present and near term. ALMRS has limited utility in replacing the basic IRMS system which is obsolete and must be replaced.

Gaps in the LTRO Function

A need for improved data flow between the LTRO and the mainframe in Albuquerque was articulated by interviewees of the outside contractor. Apparently the LRIS-2 project was to correct such deficiencies but was halted in the middle of the project.

Interviews indicated that guidelines for determination of whether a document should be recorded may not be applied uniformly.

Theoretically, LRIS and IRMS Ownership records should agree as to ownership, subject only to a timing difference in a document being recorded by LRIS and posted by the Agency. In one case, LRIS reflected that an individual had an interest in only one property (tract) when the IRMS Ownership reflected that the same individual had an interest in more than 30 properties (tracts). This difference was not due to timing since the most recent document date on either system was 1992.

Field data suggest that the LTRO function is adequately supported with the current LRIS application. What is missing is sufficient training, and appraisal and probate backlogs are creating barriers to effective performance of the system. The existing appraisal and probate backlogs are exacerbated by a significant lack of qualified personnel to perform the tasks on a timely basis at all levels in the process chain. If these issues were properly addressed with additional human resources allocations, the LTRO organization could provide the information necessary to enable LRIS application to be fully effective. Software improvements to the LRIS system, while needed to improve the interoperability at the end-user level, should be a second priority after the re-engineering of the Trust Asset and Accounting Management System. Nevertheless, while not an immediate priority, the LRIS system will need upgrading in the near term. This is because each time ownership changes, the LTRO staff must perform time-consuming manual determination and documentation of ownership interests. LRIS, as designed, is not capable of performing automated chain-of-title calculations and it does not store chain-of-title or calculated ownership information. LRIS system improvements have been delayed for the past two years due to reduction in force and budget cuts. Provision for the upgrade of LRIS to LRIS-2 has been provided in the Strategic Plan over the medium term.

LTRO staff universally want more training on information systems. Some personnel are not sufficiently familiar with computers and lack on-site systems support, especially at agency and Tribal locations. Some paralegal training would be helpful, especially related to probate functions. Other areas for training include real estate, accounting, property management, and appraisal, as well as a comprehensive overview of the trust process.

Calculation of Fractional Interests

A current system enhancement that would be beneficial would relate to the calculation of fractional interest for the heirs or beneficiaries of a deceased Indian. In the current environment, the LRIS system makes an automatic calculation of the new fractional share up to the 35 decimal places, if that is necessary. At the present time there is no such automatic calculation within the IRMS Ownership system. It is currently being done manually with some difficulty since most calculators will not go out that many decimal places. There is an impression that what staff members do is obtain the LRIS calculated fractional share and then enter that in the IRMS system. A system enhancement that would make the calculation process existing on LRIS available to the IRMS system would be desirable.

An additional suggestion was to consider the universal or global change order of interest in land and interest Indian property rights. In four current, separately-operated systems (IRMS Ownership, IIM, People and the Royalty Distribution Records System) the common identification of Indians is by their ID numbers throughout the system. The universal change order that would provide for the one-time systems input of an ID number, would go a long way in avoiding some of the problems that are currently being encountered. The current procedure and validation controls, for ID number assignment are either insufficient or need tighter management. This requires further research for clarification.

Other field comments supported the regulation on special requirements to pay owners directly for oil

and gas, and mineral interest, particularly 25 CFR 162.5 Section F. Others appear to favor some methodology and procedure that would require a proof of payment to the owner so as to avoid problems in determining whether owners have been receiving the correct amount of payment or payment at all. The rate of payment from the lessee is also an issue that arises in some of these problem areas. An additional concern is when an Indian actually uses land and he is a co-owner with other Indians or non-Indians. This may arise when property is inherited and four or five siblings have an undivided interest in the property represented by their fractional share. There are specific provisions in 25 CFR 162.2 as to the ability of a co-owner to use the land himself or herself. The problem arises when one of four or five siblings uses the land for grazing, farming, etc., but does not share the profits or rewards of such usage with the other siblings.

V. Review of Special Interest Areas

Gaps in Special Interest Areas

1) Oil and Gas

The basic element of information necessary for quality reporting of production information related to an individual trust account centers around property ownership. Ownership records at the trust account level are decentralized to the Agency level resulting in a variety of "trust accounting systems" as described above as IRMS, IBM System 36, "in house" PC-based and manual cards. Problems resulting from the lack of standard systems are manifest in centralized systems such as IIM and MMS.

Field issues were addressed regarding audit expectations relating to differences in bbls/mcf produced by a given well and bbls/mcf sold and reported to owners. Such concerns are not unique to DOI trust minerals; they permeate commercial trust management as well. The general rule governing the extent to which a commercial trust department audits the actual production at the well head level is dictated by the "prudent man rule," i.e., the degree of audit that a person with experience would use in the management of that persons own property. The resulting trust practice is guided by economic factors and the fact that collusion between the operator and a purchaser would normally be necessary to defraud the royalty owner. Consequently, field audits are normally conducted in cases where large amounts of production are involved.

A perception of substandard performance on the part of MMS was encountered. Interviews and direct observation were unable to produce supporting detail. It is possible that ownership and audit concerns previously discussed and their relationship to royalty distribution may be diverted to MMS, for the functions it is intended to perform, provides many audits and controls which are desirable. In addition, most funds are wired to MMS and deposited to Treasury, resulting in the generation of earnings for the trust beneficiary within a 24-hour time frame.

A requirement that 100 percent approval by owners of trust mineral interest on oil and gas leases was mentioned on multiple occasions as a source of problems and a hindrance of the opportunity to develop mineral interests. It was the opinion of those interviewed that the source of this requirement is judicial. An article written for the University of Tulsa Law Journal in the Fall of 1989 suggests that the judicial decision of a U.S. District Court in New Mexico was never published and that the case was later dismissed as moot. Thus, the Strategic Plan proposes that this problem be addressed by a policy change, rather than a legal change.

The basic element of information necessary for quality reporting of oil & gas production information

related to an individual trust account centers around property ownership, and this is where the system breaks down due to the problems of back-logs, deferred maintenance and training discussed above. Ownership records at the trust account level are decentralized to the agency level resulting in a variety of "trust accounting systems" such as IRMS, IBM System 36, "in-house" PC-based systems and manual cards. The CTMS integration with subsidiary support applications (e.g., LRIS) should eliminate the need for multi-systems.

System Architecture

A summary concept diagram of an integrated trust application and system architecture model would appear as represented in the diagram in Appendix One and is more fully described in Appendix 1, in the Macro International Report and in the Strategic Plan Budget.

VI. Risk management

This will entail obtaining a risk management and control system that will provide for adequate operational audits, credit and asset quality audits, compliance reviews, independent asset appraisals, supervision, enforcement and liaison with outside, independent auditors. It will include annual reviews and audits of all service bureaus providing trust services under delegated authority from AITDA.

VII. Integrated organizational structure

As noted, the Strategic Plan would create an organizational structure in a manner that optimizes and promotes the performance of the Federal Government's trust management business processes, the execution of its trust responsibility, and the delivery of its services and products to its clients and the American Indian trust beneficiaries. Because the execution of the trust responsibilities and the delivery of services are primarily dependent upon the performance of its business processes, the most effective and efficient method to establish such an alignment would be to base its organizational structure on its business processes.

There are three fundamental and distinct business groups: (1) Trust Funds Management (2) Land Title and Records Management and (3) Trust Resources Management. The most appropriate organization for these fundamental process groups would be a structure that establishes distinct but inter-related organizational entities under a single administration such as the American Indian Trust and Development Administration.

VIII. Specific action requirements

The Strategic Plan proposes a single organizational structure organized along business lines. Phase I of the Strategic Plan is designed to bring it about and to bring the trust management and trust management information systems up to commercial standards within two years. The specific initiatives are more fully discussed in Appendix One and, at a minimum, will involve acquiring, automating, updating, integrating, coordinating and consolidating to produce:

1. A Single Organization to Manage Trust Management Activities.

This will involve consolidating trust resource, trust funds and land ownership and records management processes into a single, independent institutional unit with its own management structure to accommodate the restructuring and reorganization contemplated by Phase I of the Strategic Plan. The

unit should be organized by function and dedicated exclusively to trust management. The unit should be managed by a full time Chairman and a Board of Directors appointed by the President and confirmed by the Senate. The unit's proposed organizational form is as an independent GSE subject to Congressional oversight.

2. A Trust Asset and Accounting Management System.

This will involve acquiring and implementing a Trust Asset and Accounting Management System which will:

- A. Provide a new asset management information subsystem for land and natural resource management and a delivery system for asset leasing, contracting, lending, buying and selling, together with standardized and/or integrated asset management, credit and operating policies, procedures and practices. The system must be able to tie to and track from land and ownership records.
- B. Provide an accounts receivable/master lease subsystem data, tickler and collection system that uses lease-contract and ownership information for trust income verification, reconciliation, billing, payments, collection, accounting, disbursement, audit, asset quality review and compliance purposes.
- C. Provide an accurate and timely trust, depository, payments and delivery system for IIM accounts and Tribal accounts. This will entail purchasing a trust, depository, payments and other financial services accounting and statement system and a delivery system to more efficiently provide current financial services and to facilitate new and improved financial services to individual Indians and Tribes.
- D. Provide a general ledger and general accounting system to accommodate all present and proposed TAAMS systems and other improvements.
- E. Conform to the general systems architecture described in Appendix One and the Strategic Plan Budget.

3. A Land Records and Title Recordation and Certification System.

This will involve the acquisition of a new system which will:

- A. Be capable of instantaneous linkage with the TAAMS and other systems used by the service bureaus providing trust services under delegated authority from AITDA in the near term.
- B. Be brought up to private sector standards through LRIS-2 upgrades and implementation in the medium term.
- C. Conform to the general systems architecture described in Appendix One and the Strategic Plan Budget.

4. A Dedicated Technology Services Center.

This will involve obtaining a centralized technology services center dedicated to trust resources, trust funds and land ownership and trust records management processes with appropriate provisions for disaster/recovery and back-up capability.

5. A National Archives and Record Center.

This will involve obtaining and centralizing a modern national archives and records center for trust asset and accounting management records and land title and records storage and retrieval along with appropriate disaster recovery protection. Implementation of modern imaging technology should be at the fore-front of the improvement initiatives.

6. A Risk Management and Control System.

This will entail obtaining a risk management and control system that will provide for adequate operational audits, credit and asset quality audits, compliance reviews, independent asset appraisals, supervision, enforcement and liaison with outside, independent auditors. It will include annual reviews and audits of all service bureaus providing trust services under delegated authority from AITDA.

7. Legislation on Fractionated Ownership of Indian Lands.

Legislation is needed which would consolidate the large number of existing fractionated interests and prevent further fractionation. This alone would remove a primary obstacle to the efficient administration of the trust management systems and provide a major catalyst for the timely resolution of most of the operational problems associated with trust management activities, including trust resource and realty management, probate, land titles and ownership records management, IIM accounting, collections, deposits, investments and disbursements, customer service and record keeping for all trust management activities.

8. Such systems and organizational improvements must be accompanied by significant legal changes, including adoption of the prudent investor rule.

9. A significant investment to clean-up:

Probate Backlog

IIM and Tribal Records

LTRO Title Defects

Appraisal Backlog

10. A significant training investment for all trust management activities, including Tribal users.

11. The acquisition and retention of competent management.

